

FSO-338-05

COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

FREDERICKSBURG SATELLITE OFFICE

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Preston Bryant
Secretary of Natural Resources

David K. Paylor
Director

Jeffery A. Steers
Regional Director

STATE AIR POLLUTION CONTROL BOARD ORDER BY CONSENT ISSUED TO THE PACKARD HUMANITIES INSTITUTE DEQ Air Facility Registration No. 41039

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1307 D, § 10.1-1309 and 10.1-1316 C, between the State Air Pollution Control Board ("SAPCB") and The Packard Humanities Institute ("PHI") for the purpose of resolving certain alleged violations of the Air Pollution Control Law and/or regulations as specified in Section C of this Order.

SECTION B: Definitions

Unless the context indicates otherwise, the following words and terms have the meaning assigned to them below:

- "Va. Code" means the Code of Virginia (1950), as amended.
- 2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184.
- 3. "CFR" means The Code of Federal Regulations.
- 4. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
- 5. "Director" means the Director of the Department of Environmental Quality.
- 6. "Facility" means the National Audio Visual Conservation Center, located at 19053 Mount Pony Road, Culpeper, Virginia 22701 (Culpeper County).
- 7. "FSO" means the Fredericksburg Satellite Office of the Northern Virginia Regional Office of DEQ, located in Fredericksburg, Virginia.

8. "Order" means this document, also known as a Consent Order.
9. "PHI" means The Packard Humanities Institute, certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
10. "Permit" means Stationary Source Permit to Construct and Operate, which became effective November 4, 2005.
11. "Regulations" refers to the Regulations for the Control and Abatement of Air Pollution for the Commonwealth of Virginia.
12. "Sellers Boilers" refers to two (2) boilers, Model No. SY-600-S, each with a maximum rated heat input of 25,107,000 Btu per hour and heat output rating of 20,087,000 Btu per hour and a steam capacity of 20,700 pounds per hour at 150 pounds per square inch gauge (maximum design pressure). Both units were manufactured on February 11, 2005. Each boiler is equipped with a John Zink Company oil burner (Model No. F18.3-0-300) for No. 2 fuel oil rated at 179.4 gallons per hour (max) and 44.9 gallons per hour (min).
13. "VAC" means Virginia Administrative Code.

SECTION C: Findings of Fact and Conclusions of Law

1. PHI owns and operates the Facility located at 19053 Mount Pony Road, Culpeper, VA 22701 (Culpeper County).
2. On February 23, 2004, the Facility commenced construction of two (2) Sellers Boilers without a permit as required by the Regulations (9 VAC 5-80-1120. A).
3. On July 20, 2005 and July 21, 2005, the Facility commenced initial startup of the two (2) Sellers Boilers, also known as Boilers #1 and #2, respectively, without a permit as required by the Regulations (9 VAC 5-80-1120. A).
4. PHI did not provide DEQ written notification of the actual date when the Facility began actual construction of each of the Sellers Boilers, postmarked no later than 30 days after such date, as required by 9 VAC 5-50-50 A and 40 CFR §§ 60.4 and 60.7.
5. PHI did not provide DEQ written notification of the anticipated date of initial startup of each of the Sellers Boilers, postmarked not more than 60 days nor less than 30 days prior to such date, as required by 9 VAC 5-50-50 A.
6. PHI did not provide DEQ written notification of the actual date of initial startup of each of the Sellers Boilers, postmarked within 15 days after such date, as required by 9 VAC 5-50-50 A and 40 CFR §§ 60.4 and 60.7.

7. PHI provided DEQ a complete Form 7 (Air Permit Application) on September 29, 2005.
8. DEQ issued PHI a permit to construct and operate the two (2) Sellers Boilers on November 4, 2005.
9. DEQ issued PHI a Notice of Violation on November 18, 2005, for construction and operation of the two (2) Sellers Boilers without a permit and not providing written notifications of dates of commence construction, anticipated and actual start-up dates of the two (2) Sellers Boilers in accordance with the SAPCB Regulations and Title 40 of The Code of Federal Regulations (40 CFR Part 60).

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1307 D, §10.1-1309 and § 10.1-1316 C, the Board orders PHI, and PHI voluntarily agrees, to pay a civil charge in the amount three thousand dollars (\$3,000.00) within 30 days of the effective date of the Order. Payment shall be made by check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

SECTION E: Administrative Provisions

The Board may modify, rewrite, or amend the Order with the consent of PHI for good cause shown by PHI, or on its own motion after notice and opportunity to be heard.

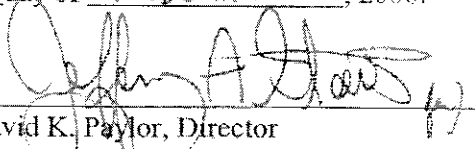
2. This Order addresses and resolves only those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to PHI by DEQ on November 18, 2005. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce this Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities, whether or not arising out of the same or similar facts, for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, PHI admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. PHI consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.

5. PHI declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the State Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by PHI to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. PHI shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or other such circumstance. PHI must show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. PHI shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of this Order. Such notice shall set forth:
 - a. The reasons for the delay or noncompliance;
 - b. The projected duration of any such delay or noncompliance;
 - c. The measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. The timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim of inability to comply with a requirement of this Order.
9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and PHI. Notwithstanding the foregoing, PHI agrees to be bound by any compliance date which precedes the effective date of this Order.

11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to PHI. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve PHI from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.
12. By its signature below, PHI voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 2ND day of FEBRUARY, 2006.


David K. Paylor, Director
Department of Environmental Quality

PHI voluntarily agrees to the issuance of this Order.

By: Alberta G Astras
Title: Chief Financial Officer
Date: 1/27/06

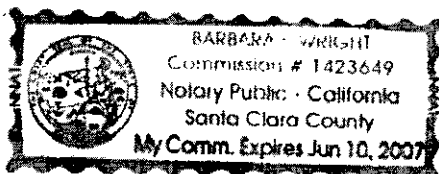
~~Commonwealth of Virginia~~ State of California
~~City/County of~~ Santa Clara

The foregoing document was signed and acknowledged before me this 27 day of
January, 2006, by Alberta G. Astras, who is
(name)

CFO of PHI, on behalf of _____ PHI.
(title)

Barbara P. Wright
Notary Public

My commission expires: June 10, 2007



Event	Date	Initials
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RECEIVED
JAN 30 2006
FSO

